

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JEREMY D. MOUNT,

Case No. 18-CV-960 (NEB/LIB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MCLEOD COUNTY; JUDGE MARK
VANDELIST, individually and in his official
capacity as Judge of District Court; and
AMBER R. DONLEY, individually and in
her official capacity as District Court
attorney, all within McLeod County,

Defendants.

This matter came before the undersigned United States Magistrate Judge upon routine supervision of the cases that pend before the Court pursuant to a general assignment made in accordance with the provision of 28 U.S.C. § 636, and upon Plaintiff Jeremy D. Mount's Application to Proceeds in forma pauperis. [Docket No. 2].

In an Order dated July 10, 2018, this Court ordered Plaintiff Jeremy D. Mount to pay an initial partial filing fee of \$259.44, consistent with 28 U.S.C. § 1915(b). (Order [Docket No. 5]). Mount later requested an extension of time to pay that filing fee, which this Court granted, giving Mount until September 20, 2018 to pay the initial partial filing fee. (Order [Docket No. 8]). This Court twice forewarned Plaintiff that if he failed to pay the initial partial filing fee the Court would recommend that this matter be dismissed without prejudice for failure to prosecute. (Order [Docket Nos. 5, 8]).

That deadline has now long since passed, and Mount has not yet paid the required initial partial filing fee in this matter. In fact, Mount has not communicated with the Court about this case at all since this Court granted the extension in which to pay the initial partial filing fee.

Accordingly, this Court now recommends, in accordance with its prior Orders, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See, Henderson v. Renaissance Grand Hotel, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Therefore, based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute; and
2. Plaintiff’s Application to Proceed in forma pauperis, [Docket No. 2], be **DENIED as moot.**

Dated: February 5, 2019

s/Leo I. Brisbois
Leo I. Brisbois
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See, Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).